



COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

May 10, 2016

Nancy Lewen  
3342 West 12<sup>th</sup> Street  
Erie, PA 16505

Subject: Nancy Lewen, Appellant v. Pennsylvania Soldiers' and Sailors' Home, Department of Military and Veterans Affairs, Appointing Authority, State Civil Service Commission Appeal # 28947

Dear Ms. Lewen:

I am writing in response to your May 5, 2016 Request for Discovery (Production of Documents).

The Pennsylvania Soldiers' and Sailors' Home (PSSH) cannot comply with your request for a computer-generated bar graph showing a percentage of inappropriate technology usage by PSSH personnel. You are the only person working at PSSH during the period September 29, 2014 through March 2, 2016 who PSSH had disciplined for violating the Commonwealth's Information Technology Acceptable Use Policy. In other words, you are the only person known to PSSH to have used PSSH's Information Technology (IT) resources in an inappropriate manner. It is impossible to provide you with a comparative analysis if there is no one to compare you to.

It appears to me that you do not understand the reason why PSSH maintains that you had violated its policy on IT resources usage. You appear to believe that PSSH disciplined you for surfing the net. This is not the case. Commonwealth employees are allowed to access the internet for personal use, using Commonwealth IT resources, during business hours. Management Directive 205.34 states as follows:

IT resources are communications tools that the commonwealth has made available for commonwealth business purposes. Where personal use of these resources does not interfere with the efficiency of operations and is not otherwise in conflict with the interests of the commonwealth, reasonable use for personal purposes will be permitted in accordance with standards established for business use. Such personal use shall be limited, occasional, and incidental.

PSSH did not discipline you for your personal use of the internet during duty hours. PSSH

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disciplined you for using your Commonwealth email to bully and harass a fellow employee, Barry Blasic. If you are seeking a comparative analysis of other employees' internet usage to compare to your own internet usage, you are requesting something that would be completely useless to the Commissioners in determining the outcome of your appeal.

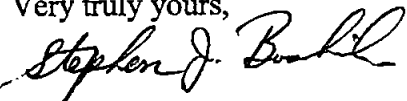
It is also important to understand that PSSH does not routinely monitor the internet usage of its employees. PSSH only monitors the internet usage of its employees when it has reason to do so. The PSSH Information Technology department simply does not have the time or resources to routinely monitor internet usage by PSSH employees. But I can assure that, if a PSSH employee was found to be using IT resources inappropriately, PSSH would discipline that employee.

In regard to your request for the dates that PSSH had disciplined employees for violating its IT usage policy, as I stated above, you are the only person who was disciplined for a violation of the IT policy during the period September 29, 2014 through March 2, 2016. As you know, you were suspended on March 2, 2016, and terminated on March 14, 2016.

In regard to your request for the DMVA/PSSH progressive-discipline policy, please be advised that neither DMVA nor PSSH has a formal progressive-discipline policy. Both DMVA and PSSH do, however, practice progressive discipline in appropriate circumstances. Of course, DMVA and PSSH are not bound to impose discipline progressively if an employee's misconduct is particularly egregious.

I trust that the information I have provided will be useful to you. Please feel free to write me at the address below if you have any questions or concerns about this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stephen J. Bushinski". The signature is fluid and cursive, with the first name "Stephen" and last name "Bushinski" clearly legible.

Stephen J. Bushinski

Cc: Bryan Bender, Labor Relations Analyst, DMVA  
Laura Knittel, Legal Services Office, State Civil Service Commission